

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

THOMAS PERRI,

Plaintiff,

- against -

MOTHER FOOD CORP., et al.,

Defendants.

- - - - - X

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ DEC 19 2011 ★

BROOKLYN OFFICE  
REPORT AND  
RECOMMENDATION

CV 11-1423 (JBW)

*See order  
attached*

GO, United States Magistrate Judge:

This action has been referred to me for pretrial supervision.

Plaintiff commenced this action on March 23, 2011. Because the defendants had not appeared and no appropriate return of service had been filed, by order dated July 26, 2011, I reminded plaintiff that service must be completed within 120 days after commencement of an action. Plaintiff was directed, if he had completed service and the time to answer had expired, to move for entry of default judgment by September 9, 2011.

On September 9, 2011, I issued a second order extending the time to move for entry of default and reminded plaintiff to do so by September 30, 2011. Plaintiff was warned if he did not comply with the order in a timely fashion, this Court would recommend that the action be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Plaintiff has failed to comply with the two prior orders and has not communicated with the Court since filing this action.

I therefore respectfully recommend that this Court, sua sponte,

dismiss this action without prejudice for failure to effectuate timely service within the 120 day period specified in Rule 4(m) of the Federal Rules of Civil Procedure.

Any objections to this Report and Recommendation must be filed with the Clerk of the Court, with a copy to the undersigned and the Honorable Jack B Weinstein. Failure to file objections within the specified time waives the right to appeal. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

SO ORDERED.

Dated: Brooklyn, New York  
October 14, 2011

/s/

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MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE

*Based upon this report and lack of  
objection, the case is dismissed without  
prejudice.*

*So ordered*

*Jack Weinstein*

*12/14/11*